

## Section 4

### Sentencing Practice in Tax Cases

Hypothetical #3: Sentencing Argument

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### SENTENCING ARGUMENT

Charlie Blau has been convicted of tax evasion. After successfully impersonating a tax lawyer for a number of years, Charlie was finally caught. For 1999 and 2000, Charlie practiced law through a C-corporation. In 2001, he converted to an S-corporation. During 1999 and 2000, he failed to report approximately \$1.5 million in each year in legal fees which he received as a result of advising about the tax results on a large personal injury case. During the year 2001, Charlie's larceny got a little bigger, and he failed to report approximately \$2 million that he received for giving tax advice to a large multi-national corporation regarding ways to minimize its taxes in the Caribbean.

During the investigation, the special agents believe that Charlie convinced his secretary, Belinda to lie to federal agents about her knowledge of various bank accounts and investment accounts which Charlie had. Belinda has maintained her innocence and avoided testifying at trial by taking the Fifth Amendment regarding her involvement. She, of course, has never been charged with anything. It also appears that during the year 2000, Charlie stole \$15,000 from his corporation's trust account which was holding the money in trust for a client, and he failed to report this income.

The year 2000 was big year for Charlie. In addition to the monies from the practice which he failed to report, he also reported approximately \$3 million in gross income from advising corporate clients about certain tax shelters. Apparently, believing his own advice, Charlie sheltered this money through the use of one of those shelters and the government has now proposed a deficiency amounting to \$1.2 million with respect to that income. The shelter in question is now a listed transaction by the Internal Revenue Service and has been widely denounced by the Service as a sham. Over 200 investors, most of them elderly, participated in these shelters which were marketed almost exclusively to Charlie's elderly estate planning clients.

The income which Charlie received from advising from a personal injury settlement was paid to him by a European corporation and maintained in a Swiss bank. Charlie later transferred some of the proceeds to an Antigua bank account. In Antigua, he set up an internet video poker playing site. After going to trial, testifying and being convicted, Charlie has discarded his first lawyer and asks you to assist him at sentencing.